



BARNES & THORNBURG

RECEIVED

OCT 10 2002

TECH CENTER 1600/2900

Indianapolis, Indiana 46204
(317) 236-1313
(317) 231-7433 Fax

AF

1600

#11
JRP
10/15/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group: 1614

Confirmation No.: 8145

Application No.: 09/836,567

Invention: METHODS FOR IDENTIFYING
AND TREATING RESISTANT
TUMORS

Applicant: Sawyer et al.

Filed: April 17, 2001

Attorney

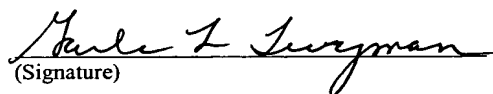
Docket: 3051-67789

Examiner: Goldberg, Jerome D.

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231

on September 30, 2002


(Signature)

Garla L. Twyman

(Printed Name)

RESPONSE UNDER 37 C.F.R. § 1.116

BOX NO FEE RESPONSE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Final Office Action mailed July 1, 2002 for which the three month shortened statutory period for response is set to expire October 1, 2002. Should any extension of time to respond be required, please consider this a request for such an extension and the Assistant Commissioner is authorized to charge any additional fees to Deposit Account 10-0435, with reference to attorney docket number 3051-67789.

Please consider the following remarks:

DOUBLE PATENTING

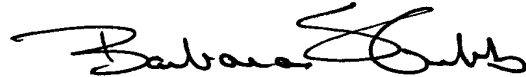
Claims 1 and 2 stand rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 5,543,428. Applicants previously transmitted a Terminal Disclaimer Under 37 C.F.R. § 1.321(c),

disclaiming any term beyond the expiration date of U.S. Patent No. 5,543,428 and stating the signatory's interest in the application with the response (Paper 9) to the Office Action of November 30, 2001. Included herewith is a copy of the original transmittal sheet and the terminal disclaimer. Withdrawal of the obviousness-type double patenting rejection is respectfully requested.

CONCLUSION

Applicants respectfully submit that the claims now stand ready and in condition for allowance and such allowance is courteously solicited. Should the Examiner have any questions or wish to further discuss this matter, it is requested that the undersigned attorney be contacted at (317) 231-7244.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barbara S. Gibbs", with a stylized flourish at the end.

Barbara S. Gibbs, Ph.D.
Registration No. 44708
Attorney for Applicants.

BSG:gl
Indianapolis, IN 46204
(317) 231-7244